

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CAROLYN THOMAS o/b/o
C.T., a minor,

Plaintiff,

V.

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

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CIVIL ACTION NO. H-07-2043

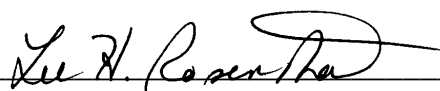
ORDER ADOPTING MEMORANDUM AND RECOMMENDATION AND ORDERING REMAND

This court has reviewed the Memorandum and Recommendation of the United States Magistrate Judge signed on August 20, 2008, and has made a *de novo* determination of the Magistrate Judge's recommended disposition. Rule 72(b), Fed. R. Civ. P.; 28 U.S.C. § 636(b)(1)(C); *United States v. Wilson*, 864 F.2d 1219 (5th Cir. 1989). No objections have been filed. This court finds that the Memorandum and Recommendation should be, and is, adopted as this court's Memorandum and Order. This court finds that the Administrative Law Judge's decision to deny disability benefits to Thomas was not supported by substantial evidence and is not made in accordance with the applicable law. The plaintiff's motion for summary judgment is granted; the defendant's motion for summary judgment is denied; and the plaintiff's claim for Supplemental Security Income benefits is remanded to permit further

development of the record on the severity of C.T.'s asthma and its effect viewed in combination with his ADHD and Tourette's syndrome.

This case is remanded to the Social Security Commission for further proceedings consistent with the Memorandum and Recommendation of the Magistrate Judge, adopted as the Memorandum and Opinion of this court.

SIGNED on September 16, 2008, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", is written over a horizontal line.

Lee H. Rosenthal
United States District Judge